IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

**WRIT PETITION NO : 11552 of 2003**

Between:

The Depot Manager,
A.P.S.R.T.C., Warangal.I Depot.

**..... PETITIONER**

AND

1 G.S. Reddy, S/o. Sathi Reddy,
R/o. H.No.2-4-913, Gokulnagar, Old Bus Depot Road,
Hanamkonda, Warangal.
2 The Industrial Tribunal-cum-Labour Court,
Warangal.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ or order or direct more in the nature of writ of mandamus calling for the records relating to the Award passed in I.D.No.118/2000 dated 5-11-2002 on the file of the Labour Court, Warangal and quash the same as illegal. arbitrary, without jurisdiction and in violation of principles of natural justice.

**Counsel for the Petitioner: SMT.P.RAJANI REDDY**

**Counsel for the Respondent No.: MR.A.K.JAYAPRAKASH RAO**

**The Court made the following :**

**THE HONOURABLE SRI JUSTICE K.C.BHANU**

**WRIT PETITION NO.11552 OF 2003**

**ORDER:**

This writ petition is filed challenging the award dated 5.11.2002 in I.D.No.118 of 2000 on the file of the Labour Court, Warangal.

The first respondent was appointed as driver in petitioner-Corporation in the year 1973. While he was driving a bus on 20.9.1998 on route from Hanamkonda to Nizambad via Kamareddy, a pedestrian fell down on the road. According to the driver of the bus, the pedestrian was intended to commit suicide, but according to the petitioner-Corporation, the petitioner caused the accident. A regular departmental enquiry was conducted and he was placed under suspension immediately after the accident. The Enquiry Officer, after conducting proper enquiry and after affording reasonable opportunity to the driver, held that the charges levelled against the workman are proved and accepting the same, the disciplinary authority issued a show cause notice of removal dated 15.4.1999 and as the explanation of the workman was not satisfactory, final orders have been passed on 23.4.1999. Appeal and review filed by the workman were rejected. Challenging the removal, the workman-first respondent herein raised an industrial dispute. The Labour Court upon appreciation of evidence came to conclusion that there was no rashness or negligence on the part of the driver and therefore, the removal of the petitioner from service is harsh and unreasonable and awarded back wages from the date of removal till the date of retirement. Aggrieved by the same, the Corporation filed the present writ petition.

It is contended by the learned Standing Counsel for the petitioner-Corporation that

since the enquiry is held valid and there is substantive material evidence before the enquiry officer, Tribunal ought not to have interfered with the removal order and therefore, it exceeded its jurisdiction vested under Section 11 of the Industrial Disputes Act, hence, she prays to allow the writ petition.

On the other hand, it is submitted by the learned counsel appearing for the first respondent-workman that upon re-appreciation of evidence, it is clear that there is no direct evidence to show that the accident was caused due to the rashness or negligence on the part of the first respondent and therefore, the Labour Court has rightly allowed the industrial dispute. He further contended that immediately after the accident the first respondent gave an explanation stating that the person who died in the accident, on his own collided with the bus and fell under the bus with a view to commit suicide and therefore, it is not a question of rash or negligent act and hence order under challenge does not suffer from any infirmities so as to call for interference at the hands of this Court.

The Tribunal has recorded a categorical finding that there was a fair and reasonable opportunity given to the workman during the domestic enquiry. The findings of the Labour Court are that there is no direct evidence to prove negligent driving of the petitioner. As seen from the observations of the Labour Court the Enquiry Officer based his findings on the rough sketch and the evidence of Chief Inspector, Siricilla. The enquiry officer placed his reliance only on the panchanama and rough sketch and the evidence of one witness, who prepared rough sketch. Perhaps, that is the reason why the Labour Court came to conclusion that there is no direct evidence to conclude the negligence of the petitioner. Even if, there is no direct evidence to prove the negligence, at the same time negligence can also be inferred from the circumstances of the case. The Labour Court has recorded a categorical finding to the effect that the accident was not caused due to any rash or negligent driving by the driver. The said finding does not seem to be perverse or contrary to evidence. The recitals in panchanama and rough sketch are some factors that can be taken into consideration in arriving at a conclusion that whether there was rashness or negligence on the part of the driver of the vehicle. Certainly, those two documents cannot be the sole basis for attributing the offence to the driver. Therefore, the findings of the Tribunal cannot be said to be perverse or improper or cannot be said to be not based upon any evidence. Upon reappreciation of evidence, the Labour Court found that there was no negligence on the part of the first respondent in

causing accident. The Labour Court did not observe that the findings of the enquiry officer are totally perverse or contrary to material on record, though in the departmental enquiry there was some material to show that there was some negligence on the part of the first respondent. Therefore, it cannot be said that the findings recorded by the enquiry officer are totally baseless and perverse. In that view of the matter, awarding of back wages without recording any reasons is not sustainable. It is accepted that the Labour Court should have recorded some reasons for awarding back wages. Such reasons are lacking in the impugned award.

Therefore, the award of the Labour Court, insofar as granting back-wages from 23.4.1999 to 31.10.2001 are disallowed and all other findings are confirmed. With the above modification, the writ petition is partly allowed.

It is brought to the notice of this Court that though the first respondent-workman was retired on 31.10.2001, he was not being paid retirement benefits. Therefore, the petitioner is directed to pay the retirement benefits within a period of three months from the date of receipt of a copy of this order.

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**K.C.BHANU,J**

15th June, 2005.

Mdaa

Copy to:

1. The Depot Manager,
   A.P.S.R.T.C., Warangal.I Depot.

2. Two C.D.copies.